

REMARKS**Summary of the Final Office Action**

Claims 31-33, 35-40 and 42-52 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Hashimoto, EP 938,091 (hereinafter "Hashimoto").

Summary of the Response to the Office Action

Applicants have canceled claims 46 and 50 without prejudice or disclaimer. Applicants have also amended independent claims 31, 38, 45, and 49, and added new dependent claims 53 and 54, to differently describe embodiments of the disclosure of the instant application's specification and/or to improve the form of the claims. Accordingly, claims 31-33, 35-40 and 42-45, 47-49, and 51-54 are currently pending for consideration.

Rejections under 35 U.S.C. § 102(b)

Claims 31-33, 35-40 and 42-52 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Hashimoto. Applicants have canceled claims 46 and 50 without prejudice or disclaimer, rendering the rejections of these claims moot. Applicants have also amended independent claims 31, 38, 45, and 49, and added new dependent claims 53-54, to differently describe embodiments of the disclosure of the instant application's specification and/or to improve the form of the claims. Accordingly, to the extent that these rejections might be deemed to apply to currently pending claims 31-33, 35-40 and 42-45, 47-49, and 51-54, as newly-amended, they are respectfully traversed for at least the following reasons.

Applicants respectfully submit that, in the recording mode, the applied Hashimoto reference has three kinds of sources, i.e., "Cognizant device" and "Non-cognizant device" and "Analog" as described in FIG. 5. A decision as to whether the source is digital data or not is executed in accordance with the data itself (please see col. 8, lines 30-32). Further, a decision as to whether the source is a cognizant device or not is executed in accordance with a flag. Applicants respectfully submit further that in lines 33-40, it is clearly described that "the operation proceed to step S2, where the CPU 29 makes a decision as to whether the data transmitter (in this case, personal computer 2) is a cognizant device or not. Applicants respectfully submit that this decision can be executed in accordance with a header of the packet transmitted via the 1394 serious bus 6, since a flag is included in the header to represent that the data transmitter is a cognizant device."

Applicants respectfully submit that FIG. 18 indicates another recording mode using RMID. The RMID is also a flag (please see col. 15, line 50). Further, FIG. 27, FIG. 36, FIG. 48, FIG. 56, FIG. 64 and FIG. 65 shows other recording modes. In all cases described in these drawings, a flag is used for deciding whether the source is a cognizant device or not (please see portions corresponding to these drawings).

In one embodiment of a reproduction mode, a user selects a desired reproduction, i.e., cognizant reproduction, or non-cognizant reproduction (please see col. 12, lines 42-44, FIG. 11).

Applicants respectfully submit that the other reproduction mode embodiments are described in FIG. 22, FIG. 31, FIG. 41, FIG. 52, FIG. 60, FIG. 69 and FIG. 70. In all cases described in these drawings, a flag is used for deciding whether the source is a cognizant device or not (please see portions corresponding to these drawings).

Therefore, Applicants respectfully submit that Hashimoto discloses utilizing a flag for deciding whether the source is a cognizant one or not in both a recording mode and a reproducing mode.

On the contrary, Applicants respectfully submit that in embodiments of the disclosure of the instant application, as described in the newly-amended claims, it is impossible to determine whether the source is an authorized one or not by using a flag. This is because a device which is illegally altered will have the same flag. Such a device will be altered so that copy control information indicating "copy once" will be applied to a signal in the case copy control information indicating "no more copy" should be applied. Applicants respectfully submit that because it is not assumed that a cognizant device illegally altered as a non-cognizant device, and vice versa in Hashimoto, Applicants respectfully submit that it is possible to use a flag for deciding whether the source is a cognizant device or not.

Applicants respectfully submit that in embodiments of the disclosure of the instant application, as described in the newly-amended claims, the source of the inputted information signal is determined in accordance with a combination of a discriminated type of a scramble system and a discriminated type of a copy control information.

Then, when the source is determined as an unauthorized one, a scrambled output is not recorded/reproduced even if the discriminated type of the copy control information is one for permitting only one recording, i.e., "copy once".

Applicants respectfully submit that this feature is not disclosed or even suggested in Hashimoto to any extent.

In addition, Applicants respectfully submit that Hashimoto does not change EMI in accordance with the source. In all cases, EMI of a output signal is the same as that of an input signal in one mode.

On the contrary, Applicants respectfully submit that in embodiments of the disclosure of the instant application, as described in the newly-amended claims, a scramble system is applied to the read information in accordance with the determined source so that the applied scramble system is different by the determined source. Please see FIG. 2 of the instant application, for example. Applicants respectfully submit that this feature is clearly described in new claims 53 and 54.

However, Applicants respectfully submit that Hashimoto does not disclose, or even suggest this feature to any extent.

Accordingly, Applicants respectfully assert that the rejections under 35 U.S.C. § 102(b) should be withdrawn because Hashimoto does not teach each feature of newly-amended independent claims 31, 38, 45 and 49 of the instant application. As pointed out in MPEP § 2131, "[t]o anticipate a claim, the reference must teach every element of the claim." Thus, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Verdegaal Bros. v. Union Oil Co. Of California, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987)." Furthermore, Applicants respectfully assert that the dependent claims, including newly-added dependent claims 53 and 54, are allowable at least because of their dependence from newly-presented independent claims 31, 38, 45 or 49, and the reasons set forth above.

CONCLUSION

In view of the foregoing amendments and remarks, withdrawal of the rejections and allowance of all pending claims are earnestly solicited. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution. A favorable action is awaited.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0573. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

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